United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Battle Mountain Field Office
50 Bastian Road
Battle Mountain, Nevada 89820
http://www.nv.blm.gov

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In Reply Refer To:
NV062-EA05-04
4700

MAR 0 4 2005

Dear Reader:

Enclosed for your information is a copy of the Finding of No Significant Impact (FONSI) and Decision Record (DR) for the Fish Creek Complex Wild Horse Removal. The FONSI/DR has been issued to reflect the implementation of the Proposed Action described and extensively analyzed in Environmental Assessment #NV062-EA05-04.

Comments received by this office during the public comment period were addressed in the second attachment (Public Comment Responses). Public comments received were both in support of and in opposition of the removal of wild horses from the Fish Creek Complex in order to achieve Appropriate Management Levels (AMLs). Comments in support of the removal did not warrant a response or corrections to the EA. Comments received in opposition of the gather have been addressed in the attachment and did not warrant any changes or additional analysis in the EA.

The Battle Mountain Field Office would also like to inform you that a copy of the EA is available via the internet at www.nv.blm.gov/bmountain and clicking on the EA/EIS link. If you do not have internet access and would like to receive a hard copy of the completed EA, please submit your request in writing to Shawna Richardson, Wild Horse and Burro Specialist, at the address provided above.

Sincerely,

Doug Furtado
Acting, Assistant Field Manager
Renewable Resources

Enclosures: 2
1. FONSI/DR for the Fish Creek Complex Wild Horse Removal.
2. Public Comment Responses.

DECISION RECORD
FINDING OF NO SIGNIFICANT IMPACT

FISH CREEK COMPLEX
WILD HORSE REMOVAL ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL ASSESSMENT NO. NV062-EA05-04

MARCH 2005

INTRODUCTION:

The Battle Mountain District (Battle Mountain Field Office and Tonopah Field Station) and the U.S. Forest Service (USFS) propose to conduct a wild horse removal within the Fish Creek Complex. The removal area is located in the Shoshone-Eureka Planning Area in Eureka County, Nevada, Tonopah Planning Area in Nye County, Nevada, and public lands administered by the USFS in Nye and Eureka Counties.

The current estimated wild horse population for the Complex is 1,101 head. This number exceeds the total established Appropriate Management Level (AML) range of 307-420 wild horses. The AML of 307-420 wild horses was established through the interdisciplinary evaluation process and is based on a thorough analysis of monitoring data. Based on this analysis, it was determined that when wild horse populations exceed the established AML, actual utilization levels exceed management objectives, leading to over-utilization of rangeland vegetation and degradation to the rangeland resource.

Numerous multiple-use evaluations, environmental assessments, and decisions analyzed the AMLs for the Fish Creek Complex. The AMLs established through evaluations and Final Multiple Use Decisions (FMUDs) were determined to be the level of use by wild horses, which will provide for a thriving natural ecological balance and prevent deterioration of the range caused by over use by wild horses. The AMLs were also determined to be the levels of wild horses which will ensure that populations are viable and exist within the capacity of the habitat to provide forage and water. The AML for the Little Fish Lake HMA/WHT was established through stipulated agreement (Consent Decision) between BLM, E. Wayne Hage, Colvin and Son Cattle Co., and Russell Ranches through the Department of the Interior Office of Hearings and Appeals, Hearings Division. Maximum number of horses for Wagon Johnnie (Little Fish Lake HMA) was set at 132 through this decision. In the case of the remaining HMAs, AML was determined following the collection, analysis, and interpretation of many years worth of monitoring data which included precipitation, use pattern maps, trend, production and census/inventory. In many cases, the AML was determined through carrying capacity analysis.

At the present time, utilization is exceeding acceptable levels, and damage to range, riparian areas and meadow complexes is currently occurring throughout the Complex as a result of the current number of wild horses. Additionally, emergency conditions exist in portions of the Complex due to lack of available water for wild horses. The current population of wild horses within the Complex is exceeding the capacity of the habitat to sustain wild horse use. Current levels of wild horses in these HMAs are negatively impacting rangeland vegetation condition and riparian resources. Livestock permittees have significantly reduced their use and modified their grazing systems in response to over-utilization by wild horses. The removal of excess wild horses in the Complex is needed in order to achieve a thriving natural ecological balance between wild horse populations, livestock, wildlife, rangeland vegetation and water availability, and protect the range from further degradation as a result of wild horse populations in excess of the established AMLs.

As a result of existing resource conditions, the Proposed Action is to achieve the low range of AML for the Complex and apply fertility control to mares released within the Little Fish Lake HMA. AML will be achieved within the Seven Mile, Fish Creek, North Monitor, and Little Fish Lake HMAs, cooperatively with the U.S. Forest Service's Butler Basin and Little Fish Lake WHTs, and outside HMAs/WHTs. These areas have never been gathered conjointly as a complex. Portions of the Fish Creek HMA have been gathered in the past, most recently as an emergency situation in July, 2004 when wild horses were

removed from the northern portion of the HMA due to severe water shortages. The Little Fish Lake HMA was last gathered in 1998 and, the last gather in the Seven Mile HMA was in 1986.

Achieving AML within these areas will begin the process of obtaining a thriving natural ecological balance with other resources and the attainment of Land Use Plan Objectives and Resource Advisory Council Standards and Guides within the Fish Creek Complex. The Proposed Action is described in the Fish Creek Complex Wild Horse Removal EA and Gather Plan dated January 2005.

SUMMARY OF PROPOSED ACTION:
The Proposed Action will consist of completing a wild horse gather within and outside the boundaries of the Fish Creek Complex. The Proposed Action includes: 1) Achievement of the low range of AML (307 horses), 2) Gather and remove wild horses in horse-free areas as a priority and 3) Inoculation of 100% of the released mares in Little Fish Lake Valley with Porcine Zona Pellucidae (PZP- fertility control).

FINDING OF NO SIGNIFICANT IMPACT:
Resources determined to be potentially impacted were analyzed in the EA specific to the Proposed Action and the alternatives. Based on the analysis detailed in EA **NV062-EA05-04**, I have determined that the impacts of the Proposed Action (Alternative I) detailed in the EA are not significant (based on the definition of significance in 40 CFR 1508.27). Therefore, preparation of an environmental impact statement is not required. Review of the analysis of the Proposed Action detailed in the EA has led to my decision that all practicable means to avoid or minimize environmental harm and unnecessary or undue degradation of the public land have been adopted.

RATIONALE:

Air Quality
Surface disturbances related to the removal of wild horses will result in short-term increases in particulate emissions from the generation of fugitive dust. Dust will also be generated by traffic on unpaved roads within the project area. These effects will be temporary, occurring through the duration of the Proposed Action. Traffic associated with the gather will be required to maintain minimal speeds to keep airborne particulates to a minimum. Trap sites and temporary holding facilities will be watered down to keep increased dust caused by hoof action to a minimum in these confined areas.

Cultural
The Proposed Action has the potential to disturb cultural resource sites primarily through ground disturbing activities associated with gather operations. Impacts will be minimized through adherence to all Standard Operating Procedures as outlined in the EA and through Archaeological clearance of trap sites and holding facilities prior to construction.

Soils
The Proposed Action has the potential to affect undisturbed native soils. To the extent possible, gather activities will be confined to previously disturbed areas. If this is not feasible, then the COR will implement procedures to re-vegetate disturbed soils in order to prevent erosion from wind and water, and the spread of invasive, non-native species. Successful re-vegetation of the project area will promote stability, thus decreasing erosion and the potential increase in invasive non-native species.

Vegetation
Effects to vegetation associated with the Proposed Action include vegetation removal and loss, or reduction in the plant productivity in areas not previously disturbed used to set up trap sites and temporary holding facilities. Vegetation species that will be affected are widespread and common throughout northern Nevada and in areas adjacent to the project area. If trap sites and temporary holding facilities are constructed in areas with no previous ground disturbance, the COR will be responsible for incorporating measures to re-seed disturbed areas with a BLM approved, weed-free seed mix.

Invasive, Non-Native Species
The project area has not been identified as an area of high or moderate risk for invasive, non-native species by BLM resource specialists. A complete inventory has not been completed at this time. However, invasive, non-native species known to exist

within the complex include hoary cress, musk thistle, larkspur, and halogeton. Soil disturbance provides an opportunity for invasive, non-native species to establish. The Proposed Action has the potential to create new disturbance if previously disturbed sites are not used for the placement of trap sites and temporary holding facilities. This disturbance will provide a potential habitat for the establishment of invasive, non-native species. Increased vehicle travel could also increase the potential for entry and spread of invasive, non-native species into disturbed areas.

As part of the proposed action, the COR will incorporate measures to control invasive, non-native species. Control measures will include excluding vehicular traffic in areas infested by invasive, non-native species, monitoring areas disturbed by gather activities for new infestations and, proactively treating new infestations with a BLM approved herbicide. These measures will prevent the establishment of invasive, non-native species and will ensure the persistence of desirable species.

Wildlife (Including Migratory Birds)
The Proposed Action will result in the temporary displacement of some small mammals and reptiles as a result of site disturbance. Impacts to wildlife will also include an increase in noise and vehicle traffic in the project area. Other impacts to wildlife will be minimal and short-term due to the temporary nature of the Proposed Action. Due to the seasonality of the Proposed Action, migratory birds will potentially be impacted by the gather activities. However, disturbance will be limited to areas previously disturbed with little nesting vegetation. Where this is not feasible, a qualified biologist will conduct site surveys to determine the presence of nesting birds. Known nesting sites will be avoided.

Special Status Species
Suitable habitat for threatened, endangered, or sensitive species could exist within the proposed project area. Trap sites and temporary holding facilities will be inspected prior to construction to determine the presence of threatened, endangered, and sensitive species. If present, these areas will be avoided by gather activities.

Range Resources
Range resources in the area will be minimally impacted by the Proposed Action. Livestock permittees will be notified prior to the gather to minimize conflicts with livestock and removal operations.

Wild Horses
The Proposed Action impacts wild horses inhabiting four BLM HMAs, two U.S.F.S. WHTs, and four areas managed as horse-free. All SOPs outlined in the EA will be adhered to in order to minimize stress associated with gather activities and weather conditions. All efforts will be made to ensure an appropriate age structure and sex ratio exists within the Complex in accordance with the analysis in the EA. A genetic baseline will be established within the complex to allow Wild Horse and Burro Specialists to compile and analyze the genetic health of wild horses within the Complex. The application of fertility control (PZP) to mares released within the Little Fish Lake HMA/WHT has been analyzed in the EA and does not pose any long-term direct or indirect impacts.

Wilderness Study Areas
Portions of the Proposed Action occur within the Antelope Range, Park Range, and Fandango WSAs. The Interim Management Policy (IMP) for Lands Under Wilderness Review (H-8550-1) provides guidance for management of WSAs. The IMP addresses wild horse and burro management in Chapter III, Section E which specifically allows for the use of helicopters for the gathering of wild horses. Chapter 1, Section B.2, discusses the need for any proposed actions in WSAs to meet the test of non-impairment. Essentially, any actions which will cause surface disturbance as defined in Chapter 1, Section B.3, will be denied. Through analysis in the EA, it was determined that the non-impairment criteria would be met and would not result in unacceptable impacts to the WSAs. A Wilderness Specialist or designee will be on-sight to ensure that all gather activities potentially occurring within the WSAs are within all regulations.

REMOVAL DECISION:

As a result of the analysis presented in the Environmental Assessment (EA), it is my decision to approve the Proposed Action. The analysis of the Proposed Action, coupled with environmental protection measures, has led to my decision that all practicable means to avoid or minimize environmental harm have been adopted and that unnecessary or undue degradation of the public lands will not result. This decision is consistent with the Shoshone-Eureka Resource Management Plan (RMP)

(1986) and the Tonopah RMP (1997).

All resource values have been evaluated for cumulative impacts. It has been determined that cumulative impacts will be negligible for all resources.

In accordance with 43 CFR 4770.3 (c), this constitutes my final decision to gather wild horses within and outside the boundaries of the Fish Creek Complex, and is placed in full force and effect. Pursuant to 43 CFR 4770.3 (c), gather operations will commence on/after July 1, 2005. This decision is placed in full force and effect because removal of excess animals beginning July 2005 is necessary to protect animal health and prevent further deterioration of rangeland resources, as outlined below:

1. **Potential Impacts to Animal Health**. The Fish Creek Complex Wild Horse EA (NV 062-EA05-04) reiterated importance of addressing the emergency conditions existing in portions of the Complex. As noted, emergency conditions have been dealt with in August 2000 and July 2004 in the northern portion of the Fish Creek HMA due to decreased water availability in historic wild horse watering areas as a result of drought and large numbers of wild horses utilizing these resources. Wild Horse and Burro Specialists have been documenting conditions in these areas, monitoring water resource availability since the emergency removal in 2000. In July 2004, many of the horses were very thin and emaciated. Lack of sufficient water from historic watering areas especially took its' toll on mares and young foals. Wild horse condition will improve upon achievement of AML.

2. **Potential Damage to Rangeland Resources:** Currently, the estimated wild horse population for the Complex is 1,101 head. This number exceeds the total established AML ranges of 307-420 wild horses. Through the interdisciplinary evaluation process and analysis of monitoring data, it was determined that when wild horse populations exceeded the established AML, utilization levels will exceed management objectives, leading to over-utilization of rangeland vegetation and degradation to the rangeland resource.

Additionally, excess use by wild horses is contributing to Rangeland Health Standards not being met throughout the Seven Mile, Fish Creek Ranch, Lucky C, Arambel, Hicks Station, and Snowball Ranch Allotments. This information is documented in the Conformance Determinations completed for each allotment and issued to the interested public in 2003 and 2004. Proper Functioning Condition Assessments were also completed for the Seven Mile, Fish Creek Ranch, Hicks Station, and Snowball Ranch Allotments between 1998 and 2003.

Utilization currently exceeds acceptable levels, and damage to the range, riparian areas and meadow complexes is currently occurring throughout the Complex as a result of the current level of wild horses which exceeds the established AML. Additionally, emergency conditions exist in portions of the Complex due to lack of available water for wild horses. The current population of wild horses within the Complex is exceeding the capacity of the habitat to sustain wild horse use.

Achieving AML within the Complex will prevent further degradation to rangeland resources.

3. **An Increase in the Cost of Conducting the Proposed Action or the Time Needed to Restore Thriving Natural Ecological Balance (TNEB) to the Range:** AML has never been fully implemented within the Complex. The impacts of large numbers of wild horses are documented in historic files. Current levels of wild horses in these HMAs are negatively impacting rangeland vegetation condition and riparian resources. Livestock permittees have needed to reduce animals and modify grazing systems in response to the utilization by wild horses. Vegetation communities within the Fish Creek and Seven Mile HMA are documented as lacking in perennial grass species, or having been invaded by invasive species. Wild horse utilization levels are exceeding objectives, and will continue to degrade perennial vegetation and allowing for increased invasion by invasive species.

The removal of excess wild horses in the complex is needed in order to achieve a thriving natural ecological balance between wild horse populations, livestock, wildlife, rangeland vegetation and water availability, and protect the range from further degradation as a result of wild horse populations in excess of the established AMLs.

4. The Importance of the Removal Action in Implementing Other Essential Management Actions: Wild horse AML was established through the multiple-use evaluation process which also adjusted permitted livestock use. Livestock adjustments included: reduction in Animal Unit Months (AUMs), conversions from cattle to sheep use, changes in the permitted grazing season, and development of grazing systems. The current large population of wild horses inhabiting the Complex precludes the implementation of several of the grazing management strategies. Over utilization by wild horses is preventing livestock permittees from implementing livestock management decisions. In addition to livestock grazing decisions, the success of various vegetation treatments for Hazardous Fuels Reduction Projects within the Seven Mile HMA may be negatively impacted by excessive wild horse use.

5. A requirement to remove wild horses to comply with a court order: The AML for the Little Fish Lake HMA/WHT was established through stipulated agreement (Consent Decision) between BLM, E. Wayne Hage, Colvin and Son Cattle Co., and Russell Ranches through the Department of the Interior Office of Hearings and Appeals, Hearings Division. The Consent Decision signed by Administrative Law Judge David Torbet on May 11, 1992, stated in part:

> "The following numbers of wild and free-roaming horses are the maximum numbers that permit a thriving ecological balance of the uses and resources upon the following allotment(s):"

Allotment	Maximum No. of Horses
Wagon Johnnie (Little Fish Lake HMA)	132

Appeal Statement:
This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR, Part 4. If an appeal is taken, your appeal must be filed with the Bureau of Land Management, 50 Bastian Rd., Battle Mountain, Nevada, 89820, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 for a stay, the petition for a stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to the Interior Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, and to the Office of the Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890, at the same time the original documents are filed with this office. Additionally, the person appealing must serve a copy on any person named in the decision as listed at the end of this decision. In accordance with 43 CFR 4.470, the appeal shall state the reason, clearly and concisely, why the appellant thinks the final decision of the authorized officer is in error.

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay of a decision pending appeal shall show sufficient justification based on the following rules:

(1) The relative harm to the parties if the stay is granted or denied,
(2) The likelihood of the appellant's success of the merits,
(3) The likelihood of immediate and irreparable harm if the stay is not granted, and
(4) Whether the public interest favors granting the stay.

Doug Furtado
Acting, Assistant Field Manager
Renewable Resources
Battle Mountain Field Office, BLM

3-4-05
Date

Public Comment Responses

Fish Creek Complex Wild Horse Gather Environmental Assessment #NV062-EA05-04

Several comment letters were received during the review period for the Fish Creek Complex Gather Plan and EA. The following is a summary of the comments received:

- Teri Slatauski, Nevada Department of Wildlife. Support of the Proposed Action and Alternative #2. NDOW does not support the No Action Alternative. Note that Archery season begins in August, however due to urgency of resource protection gather should not be postponed.
- Tom Gardner, Permittee, Sevenmile Allotment. Support of the findings in the EA, and the AML for Sevenmile HMA/Butler Basin WHT. Damage to resources by increasing numbers of wild horses is getting worse as time passes. Important to complete the Summer 2005 gather and future gathers to maintain AML.
- Michael Stafford, Nevada State Clearinghouse. Proposed gather is not in conflict with any state plans, goals or objectives.
- Eureka County Public Lands Advisory Committee. Alternative 1 is the best option. Reducing wild horse population will benefit riparian areas, native vegetation, livestock and wildlife.
- Ms. Karen Thunshelle, Minot, ND. Do not gather the wild horses. Regulate cattle on public lands.

Similar letters were received from the following individuals. These letters involved several comments, which will be summarized and addressed below.

- Daniel Codero Fernandez, Madrid Spain. Opposition to the proposed gather.
- Duane L. Burright, Jr., Malibu, California. Opposition to the proposed gather.
- Valerie Kennedy, Plant City, Florida. Opposition to the proposed gather.
- Barbara Warner, Lebanon, Kentucky. Opposition to the proposed gather.

Comment 1:
Removal of horses 5 and under, and 10 and older will destroy social and genetic structure of bands. This and fertility control will lead to complete extinction. This is the intent of the BLM.

Response 1:
It is certainly not the intent of the BLM to cause the extinction of wild horses and burros on public lands. The BLM is mandated to comply with the requirements outlined within the Wild Free-Roaming Horses and Burros Act (WH&B Act) (PL-92-195), as amended, Code of Federal Regulations (CFR) at 43 CFR §4700 as well as all other laws, policy and regulation. The WHB Act states that wild free-roaming horses and burros "shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the public lands". Additionally, the BLM is mandated to manage wild horses and burros "as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat".

Fertility control and genetic viability has been researched and documented for many years by the BLM and researchers associated with the BLM and Bureau of Research and Development. The reader is referred to the numerous references listed on page 44-45 of the EA for detailed information about these topics. The reader is specifically directed to those identified for Coates-Markle, Singer, Kilpatrick, Turner and Zoo Montana which relate to fertility control and genetic viability. Population Modeling was completed for all alternatives including the Proposed Action. Results of the modeling does not indicate that a population crash is likely to occur. Minimum population levels and growth rates were all within reasonable levels according to the modeling. Please refer to pages 33-34 of the EA and Appendix D for complete details on the results of the modeling completed.

The reader is also referred to pages 12 and 31 of the EA and pages 3-4 of the Gather Plan which discuss the gather objective to release appropriate age structures and sex ratios and avoidance of the selection of certain age groups while adhering to the IM-2002-095 *Gather Policy and Selective Removal Criteria for Wild Horses* which outlines the removal priorities that should be followed by the BLM during a gather.

Comment 2:
307-420 wild horse AMLs are blamed for degradation of range and riparian areas, yet thousands of cattle and sheep AMLs are allowed on Fish Creek Complex Public Lands. GAO reports in 1990 proved that cattle cause these problems, not horses.

Response 2:
The 2005 post foaling population within the Complex is estimated to be1,283-1,384 wild horses, which equates to 305-438% of the established Appropriate Management Levels (AMLs). AML figures are expressed in terms of numbers of wild horses, or in terms of Animal Unit Months (AUMs), which is the amount of forage required to sustain one cow or one horse for one month. The AML of 307-420 wild horses equates to 3,684-5,040 AUMs. The 2005 post foaling population of wild horses will be utilizing 15,396-16,608 AUMs. Livestock numbers are typically expressed in AUMs. Although BLM understands that some individuals may desire removal of all livestock or other uses from public land for the exclusive management of wild horses, the Federal Land Policy and Management Act of 1976 (PL-94-579) requires that management of public lands be managed on the basis of multiple use, which through the definition includes, but is not limited to recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values. Additionally, the WH&B Act, and Code of Federal Regulations require that wild horses be managed in balance with other uses and within the concept of multiple use. The BLM is also required through CFR at 4180 to take appropriate action to modify existing grazing management should it be determined that those practices are causing non-attainment of the Resource Advisory Council Standards for Rangeland Health.

Through the interdisciplinary evaluation process, the BLM evaluates data and identifies needed changes in livestock management. In the case of the Fish Creek Complex, livestock reductions and/or implementation of grazing systems has occurred on all BLM grazing allotments, and many of the USFS allotments are currently closed to livestock. Livestock adjustments and wild horse Appropriate Management Level were previously established and analyzed in multiple use evaluations, environmental assessments and stipulated agreements. This information is provided in the EA. The purpose of the Fish Creek Complex Gather EA is not to analyze the use of these areas

by wild horses or cattle, but rather to analyze the impacts of a proposed wild horse gather to implement these previous decisions.

Comment 3:
Wild horses have been proven to benefit the range by spreading seeds through their digestive tracts, and keeping water holes open in winter. Wild horses do not damage riparian areas. Cattle pollute water through defecating in it.

Response 3:
High populations of wild horses beyond the capacity of their habitat degrade native rangeland and riparian areas through overgrazing, over grazing during critical times of the year, and hoof action. Degradation of rangeland causes reduction of perennial species, invasion of non-native species, and soil erosion, which impairs habitat used by wildlife and wild horses. In the case of the Fish Creek Complex, rangeland and riparian damage is already occurring by wild horses as documented in the EA and in several of the documents listed on page 8-9 of the EA. A gather to achieve the AML is needed to restore thriving natural ecological balance and prevent further degradation of habitat caused by an overpopulation of wild horses.

Comment 4:
Numbers projected for reproduction are not accurate, especially if mares are not healthy. The numbers are grossly inflated. How does BLM determine population size? Curly horses are rare and must be studied and protected.

Response 4:
The BLM completes aerial census of wild horse and burro populations using fixed wing aircraft and helicopters, as well as documentation of field observations. HMAs are censused every 3-4 years. These flights are the most accurate method available to the BLM to inventory herds and document population sizes. Accuracy of the census flights depends upon many factors including the aircraft used, experience of the observer, number of observers, terrain, and weather. Because of methods developed over the course of the last 34 years of wild horse and burro program management, census data is considered fairly accurate, and in general, most inaccuracies would result in undercounting rather than over counting.

As stated in the EA, a comprehensive flight of the entire Complex was completed in March 2002. A helicopter was used for the census, which required approximately 22 hours of flight time over a three day period to complete. The numbers of wild horses observed were well within the BLM estimates, and considered to be an accurate census. Because census flights are very expensive, and high risk, the BLM does not census herds every year. Census data is collected every 3-4 years, which is supported by the National Academy of Sciences. In years when census data is not available, the Battle Mountain Field Office applies an average rate of increase to the population size that either is based on the District average, or is HMA specific. In the case of the Fish Creek Complex, the District average annual rate of increase was used which is 17.5%. This figure takes into account natural mortality and reproduction rates. This average rate has proven to be very reliable to estimate population sizes when census data is unavailable. Prior to the gather, a pre-gather flight will be conducted to confirm the population size and distribution to increase the gather success and efficiency, and identify any discrepancies from the current estimates.

Reduced animal condition has been identified within the Lucky C Allotment portion of the Complex, and at this time, poor animal condition has not been documented in the remaining portions of the Complex. In wild horse herds as many as 50-66% of mares may foal each year. Surprisingly, even herds in poor condition may continue to reflect these foaling rates. The reader is again referred to the references available on pages 44-45 of the EA for more information. The Battle Mountain Field Office utilized all available data to formulate population and reproduction figures, and at this time, there is no data to suggest that the estimates given in the EA are not accurate.

The curly horses gathered throughout the Fish Creek Complex will have blood drawn for genetic testing. This information, along with other data collected during the gather and future research of curly horse genetics and traits will be used to complete a Herd Management Area Plan and determine the most appropriate future management of these horses within the Complex. During the gather, each horse identified with curly characteristics will be aged and evaluated for either release back onto the range, or for inclusion into the WH&B Adoption program. Because the curly horses represent a small portion of the existing herd, it is likely that most curly horses will be released back into the Complex.

Comment 5:
Mismanagement of wild horses violates the WHBA of 1971 as wild horses were to be managed primarily. Cattle and sheep have displaced the wild horses from1/3 of their HMAs.

Response 5:
See response to #1 and 2 above pertaining to multiple use management. Through the Land Use Planning process, the Battle Mountain Field Office designated Herd Management Areas for long-term management of wild horses and burros. Currently, wild horses are managed in nearly all of the same areas originally designated as Herd Areas after the passage of the WH&B Act with a few exceptions due to private animals that were claimed, or areas that were determined to not be suitable for management of wild horses or burros due to lack of habitat or intermingled private land issues. Changes to HMA boundaries or to the designation for management of HMAs is completed through the Land Use Planning process which involves coordination with the interested public.

Comment 6:
Cattle and sheep should be removed from the range until wild horses can regain sustainable numbers and there is thriving natural ecological balance.

Response 6:
See response to #1 and 2 above pertaining to multiple use management. The current population (1,283-1,384 wild horses) is not threatened by lack of sustainable numbers. The AML of 307-420 wild horses is a sustainable population and would ensure the genetic health of the wild horses within the Complex. Achieving the AML will ensure that a healthy, genetically viable population exists within the Complex in balance with the capacity of the habitat, ensuring the long term success of the wild horses.

Similar to management of wild horses and burros, management of livestock on public lands and changes to livestock management is completed through the Land Use Planning process and through multiple use evaluations, which both include involvement of the interested public.

Comment 7:
Drought in Nevada is over. Wild horses in poor condition or unable to access water is due to waters being fenced off or put in inhospitable areas.

Response 7:
The BLM has no data to suggest that drought conditions are over in Nevada. The effects of drought may require years of recharge by normal or above normal precipitation to restore springs, streams and other water sources. The emergency conditions in the Fish Creek HMA that occurred in 2000 and 2004 were the result of not only drought conditions which reduced water availability, but also the large numbers of wild horses using the areas that increased the demand for available waters. Waters have not been fenced from wild horses, nor have they been put in "inhospitable" areas. Wild horse populations currently exist within HMAs that represent their habitat at the time of the passage of the WH&B Act. The BLM manages wild horses only within areas that constituted their habitat at that time. Natural water sources are limited in Nevada, and this is especially true in the northern portion of the HMA where the emergency situations occurred. Elsewhere in the Complex, more plentiful waters exist, however these waters too have been depleted by drought and a large demand for water by the increasing population of wild horses. Achievement of AML will bring the population of wild horses into balance with available water sources, and should avoid future emergencies due to water shortages.

Comment 8:
No action alternative should be considered and adopted, or just the immunocontraception of mares. No gathers must occur.

Response 8:
In the Fish Creek Complex EA, the No Action Alternative was analyzed in detail for all affected resources. The current population of wild horses throughout the Complex is far above the AMLs established through the interdisciplinary evaluation process and stipulated agreement. Additionally, resource degradation by the current population of wild horses is already occurring. Achievement of the established AMLs is necessary to achieve a thriving natural ecological balance throughout the Complex and avoid further degradation of habitat and emergency situations. Fertility control alone was not considered as it would not result in achievement of the AML.

Fish Creek/Tonopah Gather Mailing List

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